



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 13, 1996

Mr. Larry V. Bonner  
Sheriff, Shackelford County  
P.O. Box 877  
Albany, Texas 76430

OR96-2396

Dear Mr. Bonner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102827.

The Shackelford County Sheriff's Department (the "department") received a request for the offense, incident, and investigation reports in a certain case. You claim that the requested information is excepted from required public disclosure by section 552.108 of the Government Code. You inform this office that the requestor in this case is an investigator for the State Board for Educator Certification (the "board"). The subject of the request is an applicant for educator certification. You have submitted representative copies of responsive records for our review.<sup>1</sup>

We believe that in this case the requestor has a right of access to the information at issue. Section 22.082 of the Education Code provides that "[t]he State Board for Educator Certification shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates to an applicant for or holder of a certificate." We note that another statute speaks to the right of the board to obtain criminal history record information. The board is entitled to obtain "criminal history record information" from the Department of Public Safety as outlined below. Section 411.083 of the Government Code provides that

(a) Criminal history record information maintained by the department is confidential information for the use of the department and, except as provided by this subchapter, may not be disseminated by the department.

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(b) The department shall grant access to criminal history record information to:

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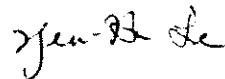
(2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information.

Section 411.090 specifically grants the board the right to obtain "criminal history record information from the Department of Public Safety. For the purposes of the Government Code, "criminal history record information" is defined as "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal charges and their dispositions." Gov't Code § 411.082(2).

In this instance, you inform this office that the requestor is an investigator of the board and the subject of this request is an applicant for an educator certificate. When read together we believe that section 22.082 of the Education Code and section 411.082 of the Government Code give this particular requestor a statutory right of access to the requested information. *Cf. Brookshire v. Houston Indep. Sch. Dist.*, 508 S.W.2d 675, 678-79 (Tex. Civ. App.--Houston [14th Dist.] 1974, no writ) (when legislature defines term in one statute and uses same term in relation to same subject matter in latter statute, later use of term is same as previously defined). The requested information consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal charges and their dispositions. The department must therefore release all of the requested information to the requestor. Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Open Records Act).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/rho

Ref.: ID# 102827

Enclosures: Submitted documents

cc: Mr. Jack W. Stamps  
Investigator, State Board for Educator Certification  
1001 Trinity Street  
Austin, Texas 78701  
(w/o enclosures)